

(4) Provide and discuss the risk management plan for handling large, potential failures of major components. Include in the discussion, costs and labor associated with the operation and maintenance of the improvement(s), and plans for in-sourcing or out-sourcing; and

(5) For owner maintained portions of the improvement(s), describe any unique knowledge, skills, or abilities needed for service operations or maintenance.

(j) *Dismantling and disposal of project components.* Describe a plan for dismantling and disposing of project components and associated wastes at the end of their useful lives. Describe the budget for and any unique concerns associated with the dismantling and disposal of project components and their wastes.

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AUTHORITY: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart F also issued under 7 U.S.C 1932(e).

Subpart G also issued under 7 U.S.C 1926(a)(11).

Subpart J also issued under 7 U.S.C 1621 note.

Subpart K also issued under 7 U.S.C. 1621 note.

SOURCE: 62 FR 42387, Aug. 7, 1997, unless otherwise noted.

### Subpart A—General Requirements for Cooperative Services Grant Programs

SOURCE: 69 FR 23425, Apr. 29, 2004, unless otherwise noted.

#### § 4284.1 Purpose.

The purpose of this subpart is to set forth definitions and requirements which are common to all grant programs set forth in this part administered by Cooperative Services within the Rural Business-Cooperative Service (RBS). Programs administered by the Business Programs within RBS are not affected by this subpart.

#### § 4284.2 Policy.

It is the policy of Cooperative Services to administer grant programs as uniformly as possible to minimize unnecessary inconsistencies in the administration of the grant programs provided for in this part. The specific provisions or definitions provided in the subparts that are specific to Cooperative Services are supplemental to these general provisions. Where a specific program provision is expressly different from what is provided in this subpart, the program specific subpart shall prevail.

#### § 4284.3 Definitions.

*Agency*—Rural Business-Cooperative Service (RBS), an agency of the United States Department of Agriculture (USDA), or a successor agency.

*Agricultural Producer*—Persons or entities, including farmers, ranchers,

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loggers, agricultural harvesters and fishermen, that engage in the production or harvesting of an agricultural product. Producers may or may not own the land or other production resources, but must have majority ownership interest in the agricultural product to which Value-Added is to accrue as a result of the project. Examples of agricultural producers include: a logger who has a majority interest in the logs harvested that are then converted to boards, a fisherman that has a majority interest in the fish caught that are then smoked, a wild herb gatherer that has a majority interest in the gathered herbs that are then converted into essential oils, a cattle feeder that has a majority interest in the cattle that are fed, slaughtered and sold as boxed beef, and a corn grower that has a majority interest in the corn produced that is then converted into corn meal.

*Agriculture Producer Group*—An organization that represents Independent Producers, whose mission includes working on behalf of Independent Producers and the majority of whose membership and board of directors is comprised of Independent Producers.

*Agricultural Product*—Plant and animal products and their by-products to include forestry products, fish and seafood products.

*Cooperative Services*—The office within RBS, and its successor organization, that administers programs authorized by the Cooperative Marketing Act of 1926 (7 U.S.C. 451 *et seq.*) and such other programs so identified in USDA regulations.

*Economic development*—The economic growth of an area as evidenced by increase in total income, employment opportunities, decreased out-migration of population, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

*Emerging Market*—A new or developing market for the applicant, which the applicant has not traditionally supplied.

*Farmer or Rancher Cooperative*—A farmer or rancher-owned and controlled business from which benefits are derived and distributed equitably on the basis of use by each of the farmer or rancher owners.

*Fixed equipment*—Tangible personal property used in trade or business that would ordinarily be subject to depreciation under the Internal Revenue Code, including processing equipment, but not including property for equipping and furnishing offices such as computers, office equipment, desks or file cabinets.

*Independent Producers*—Agricultural producers, individuals or entities (including for profit and not for profit corporations, LLCs, partnerships or LLPs), where the entities are solely owned or controlled by Agricultural Producers who own a majority ownership interest in the agricultural product that is produced. An independent producer can also be a steering committee composed of independent producers in the process of organizing an association to operate a Value-Added venture that will be owned and controlled by the independent producers supplying the agricultural product to the market. Independent Producers must produce and own the agricultural product to which value is being added. Producers who produce the agricultural product under contract for another entity but do not own the product produced are not independent producers.

*Majority-Controlled Producer-Based Business Venture*—A venture where more than 50% of the ownership and control is held by Independent Producers, or, partnerships, LLCs, LLPs, corporations or cooperatives that are themselves 100 percent owned and controlled by Independent Producers.

*Matching Funds*—Cash or confirmed funding commitments from non-Federal sources unless otherwise provided by law. Unless otherwise provided, matching funds must be at least equal to the grant amount. Unless otherwise provided, in-kind contributions that conform to the provisions of 7 CFR 3015.50 and 7 CFR 3019.23, as applicable, can be used as matching funds. Examples of in-kind contributions include volunteer services furnished by profes-

sional and technical personnel, donated supplies and equipment, and donated office space. Matching funds must be provided in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds shall have been funded prior to submitting the request for reimbursement. Matching funds are subject to the same use restrictions as grant funds. Funds used for an ineligible purpose will not be considered matching funds.

*National Office*—USDA RBS headquarters in Washington, DC.

*Nonprofit institution*—Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which may inure, to the benefit of any private shareholder or individual.

*Product segregation*—Physical separation of a product or commodity from similar products. Physical separation requires a barrier to prevent mixing with the similar product.

*Public body*—Any state, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Indian tribe on federal or state reservations or other federally recognized Indian tribe in rural areas.

*RFP*—Request for Proposals.

*Rural and rural area*—includes all the territory of a state that is not within the outer boundary of any city or town having a population of 50,000 or more and the urbanized area contiguous and adjacent to such city or town, as defined by the U.S. Bureau of the Census using the latest decennial census of the United States.

*Rural Development*—A mission area within the USDA consisting of the Office of Under Secretary for Rural Development, Office of Community Development, Rural Business-Cooperative Service, Rural Housing Service and Rural Utilities Service and their successors.

*State*—includes each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible,

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appropriate and lawful, the Freely Associated States and the Federated States of Micronesia.

*State Office*—USDA Rural Development offices located in each state.

*Value-Added*—The incremental value that is realized by the producer from an agricultural commodity or product as the result of a change in its physical state, differentiated production or marketing, as demonstrated in a business plan, or Product segregation. Also, the economic benefit realized from the production of farm or ranch-based renewable energy. Incremental value may be realized by the producer as a result of either an increase in value to buyers or the expansion of the overall market for the product. Examples include milling wheat into flour, slaughtering livestock or poultry, making strawberries into jam, the marketing of organic products, an identity-preserved marketing system, wind or hydro power produced on land that is farmed and collecting and converting methane from animal waste to generate energy. Identity-preserved marketing systems include labeling that identifies how the product was produced and by whom.

#### **§ 4284.4 Appeals.**

Any appealable adverse decision made by the Agency may be appealed in accordance with USDA appeal regulations found at 7 CFR part 11 and subpart B of part 1900. If the Agency makes a determination that a decision is not appealable, a participant may request that it be reviewed by the Director of the National Appeals Division.

#### **§ 4284.5 [Reserved]**

#### **§ 4284.6 Applicant eligibility.**

An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any assistance until the judgment is paid in full or otherwise satisfied. RBS grant funds may not be used to satisfy the judgment.

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#### **§ 4284.7 Electronic submission.**

Applicants and grant awardees are encouraged, but not required, to submit applications and reports in electronic form as prescribed in requests for proposals issued by USDA and in the applicable grant agreements.

#### **§ 4284.8 Grant approval and obligation of funds.**

The following statement will be entered in the comment section of the Request for Obligation of Funds, which must be signed by the grantee:

The grantee certifies that it is in compliance with and will continue to comply with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those contained in 7 CFR part 4284 and 7 CFR parts 3015, 3016, 3017, 3018, 3019 and 3052 in effect on the date of grant approval, and the approved Letter of Conditions.

#### **§ 4284.9 Grant disbursement.**

The Agency will determine, based on 7 CFR parts 3015, 3016 and 3019, as applicable, whether disbursement of a grant will be by advance or reimbursement. The Agency may limit the frequency in which a Request for Advance or Reimbursement may be submitted.

#### **§ 4284.10 Ineligible grant purposes.**

Grant funds may not be used to:

(a) Duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond what is currently being provided;

(b) Pay costs of preparing the application package for funding under this program;

(c) Pay costs of the project incurred prior to the date of grant approval;

(d) Fund political activities;

(e) Pay for assistance to any private business enterprise which does not have a least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(f) Pay any judgment or debt owed to the United States;

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(g) Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

(h) Purchase, rent or install Fixed Equipment;

(i) Pay for the repair of privately owned vehicles; or

(j) Fund research and development.

### **§ 4284.11 Award requirements.**

In addition to specific grant requirements, all approved applicants will be required to do the following:

(a) Enter into a grant agreement with USDA in form and substance similar to the form of agreement as may be published within or as an appendix to the applicable RFP;

(b) Submit a feasibility study and business plan showing the viability of the venture, if any Federal grant and matching funds are to be used as working capital;

(c) Use "Request for Advance or Reimbursement" to request advances or reimbursements, as applicable, but not more frequently than once a month;

(d) Maintain a financial management system that is acceptable to the Agency; and

(e) Collect and maintain data on race, sex and national origin of the beneficiaries of the project.

### **§ 4284.12 Reporting requirements.**

Grantees must submit the following to USDA:

(a) A "Financial Status Report" listing expenditures according to agreed upon budget categories, on a semi-annual basis. Reporting periods end each March 31 and September 30. Reports are due 30 days after the reporting period ends.

(b) Semi-annual performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the project. Objectives for the next reporting period should be listed. Compliance with any special condition on the use of award funds should be discussed. Reports are due as provided in paragraph (a) of this section.

The supporting documentation for completed tasks include, but are not limited to, feasibility studies, marketing plans, business plans, articles of incorporation and bylaws and an accounting of how working capital funds were spent.

(c) Final project performance reports, inclusive of supporting documentation. The final performance report is due within 30 days of the completion of the project.

### **§ 4284.13 Confidentiality of reports.**

All reports submitted to the Agency will be held in confidence to the extent permitted by law.

### **§ 4284.14 Grant servicing.**

Grants will be serviced in accordance with 7 CFR part 1951, subparts E and O. Grantees will permit periodic inspection of the program operations by a representative of the Agency. All non-confidential information resulting from the Grantee's activities shall be made available to the general public on an equal basis.

### **§ 4284.15 Performance reviews.**

(a) USDA will incorporate performance criteria in grant award documentation and will regularly evaluate the progress and performance of grant awardees.

(b) USDA may elect to suspend or terminate a grant in all or part, or funding of a particular workplan activity, but nevertheless fund the remainder of a request for an advance or reimbursement, as applicable, where USDA has determined:

(1) That the grantee or subrecipient of grant funds has demonstrated insufficient progress in complying with the terms of the grant agreement;

(2) There is reason to believe that other sources of joint funding have not been or will not be forthcoming on a timely basis; or

(3) Such other cause as USDA identifies in writing to the grantee (including but not limited to the use of Federal grant funds for ineligible purposes).

### **§ 4284.16 Other considerations.**

(a) *Environmental review.* All grants made under this subpart are subject to

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the requirements of 7 CFR part 1940, subpart G. Applications for technical assistance or planning projects are generally excluded from the environmental review process by § 1940.333, provided the assistance is not related to the development of a specific site. Applicants for grant funds must consider and document within their plans the important environmental factors within the planning area and the potential environmental impacts of the plan on the planning area, as well as the alternative planning strategies that were reviewed.

(b) *Civil rights.* All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin as outlined in 7 CFR part 1901, subpart E. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability; the requirements of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; and title III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability by private entities in places of public accommodations. This program will also be administered in accordance with all other applicable civil rights law.

(c) *Other USDA regulations.* The grant programs under this part are subject to the provisions of the following regulations, as applicable:

(1) 7 CFR part 3015, Uniform Federal Assistance Regulations;

(2) 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

(3) 7 CFR part 3017, Governmentwide Debarment and Suspension (non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(4) 7 CFR part 3018, New Restrictions on Lobbying;

(5) 7 CFR part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations; and

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(6) 7 CFR part 3052, Audits of States, Local Governments and Non-profit Organizations.

### § 4284.17 Member delegate clause.

No Member of Congress shall be admitted to any share or part of a grant program or any benefit that may arise there from, but this provision shall not be construed to bar as a contractor under a grant a publicly held corporation whose ownership might include a Member of Congress.

### § 4284.18 Audit requirements.

Grantees must comply with the audit requirements of 7 CFR part 3052. The audit requirements apply to the years in which grant funds are received and years in which work is accomplished using grant funds.

### § 4284.19 Programmatic changes.

The Grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination and recovery of grant funds.

### §§ 4284.20–4284.99 [Reserved]

### § 4284.100 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570–0045.

## Subparts B–E [Reserved]

## Subpart F—Rural Cooperative Development Grants

SOURCE: 69 FR 23428, Apr. 29, 2004, unless otherwise noted.

### § 4284.501 Purpose.

This subpart outlines the Agency's policies and procedures for making grants for cooperative development in rural areas.

### § 4284.502 Policy.

Rural cooperative development grants will be used to facilitate the

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creation or retention of jobs in rural areas through the development of new rural cooperatives, Value-Added processing and rural businesses.

### § 4284.503 Program administration.

The rural cooperative development grant program is administered by Cooperative Services within the Agency.

### § 4284.504 Definitions.

*Center*—The entity established or operated by the grantee for rural cooperative development. It may or may not be an independent legal entity separate from the grantee.

*Cooperative development*—The startup, expansion or operational improvement of a cooperative to promote development in rural areas of services and products, processes that can be used in the marketing of products, or enterprises that create Value-Added to farm products through processing or marketing activities. Development activities may include, but are not limited to, technical assistance, research services, educational services and advisory services. Operational improvement includes making the cooperative more efficient or better managed.

*1994 Institution*—means a college identified as such for purposes of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note). Contact the Agency for a list of currently eligible colleges.

*Project*—A planned undertaking by a Center that utilizes the funds provided to it to promote economic development in rural areas through the creation and enhancement of cooperatives.

### §§ 4284.505–4284.506 [Reserved]

### § 4284.507 Eligibility for grant assistance.

Grants may be made to Nonprofit corporations and institutions of higher education. Grants may not be made to Public bodies.

### § 4284.508 Use of grant funds.

Grant funds may be used to pay up to 75 percent (95 percent where the grantee is a 1994 Institution) of the cost of establishing and operating centers for rural cooperative development. Matching funds contributed by the applicant

may include a loan from another federal source. Grant funds may be used for, but are not limited to, providing the following to individuals, cooperatives, small businesses and other similar entities in rural areas served by the Center:

(a) Applied research, feasibility, environmental and other studies that may be useful for the purpose of cooperative development.

(b) Collection, interpretation and dissemination of principles, facts, technical knowledge, or other information for the purpose of cooperative development.

(c) Providing training and instruction for the purpose of cooperative development.

(d) Providing loans and grants for the purpose of cooperative development in accordance with the subpart.

(e) Providing technical assistance, research services and advisory services for the purpose of cooperative development.

### § 4284.509 Limitations on grants.

Grants made pursuant to this subpart shall be for one year or less.

### § 4284.510 Application processing.

(a) *Applications*. USDA will solicit applications on a competitive basis by publication of one or more Requests for Proposals (RFPs). Unless otherwise specified in the applicable RFP, applicants must file an original and one hard copy of the required forms and a proposal.

(b) *Required forms*. The following forms must be completed, signed and submitted as part of the application package. Other forms may be required. This will be published in the applicable RFP.

(1) “Application for Federal Assistance”

(2) “Budget Information—Non-Construction Programs”

(3) “Assurances—Non-Construction Programs”

(c) *Proposal*. Each proposal must contain the following elements. Additional elements may be published in the applicable RFP.

(1) Title Page.

(2) Table of Contents.

(3) *Executive Summary.* A summary of the proposal should briefly describe the Center, including goals and tasks to be accomplished, the amount requested, how the work will be performed and whether organizational staff, consultants or contractors will be used.

(4) *Eligibility.* A detailed discussion describing how the applicant meets the eligibility requirements.

(5) *Proposal Narrative.* The narrative portion of the proposal must include, but is not limited to, the following:

(i) *Project Title.* The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(ii) *Information Sheet.* A separate one-page information sheet listing each of the evaluation criteria referenced in the RFP, followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria.

(iii) *Goals of the Project.* This section must include the following:

(A) A provision that substantiates that the Center will effectively serve rural areas in the United States;

(B) A provision that the primary objective of the Center will be to improve the economic condition of rural areas through cooperative development;

(C) A description of the contributions that the proposed activities are likely to make to the improvement of the economic conditions of the rural areas for which the Center will provide services.

(D) Provisions that the Center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

(iv) *Work Plan.* Applicants must discuss the specific tasks to be completed using grant and matching funds. The work plan should show how customers will be identified, key personnel to be involved, and the evaluation methods to be used to determine the success of specific tasks and overall objectives of Center operations. The budget must present a breakdown of the estimated costs associated with cooperative development activities as well as the op-

eration of the Center and allocate these costs to each of the tasks to be undertaken. Matching funds as well as grant funds must be accounted for in the budget.

(v) *Performance Evaluation Criteria.* Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal receives grant funding under this subpart. These suggested criteria are not binding on USDA.

(vi) *Undertakings.* The applicant must expressly undertake to do the following:

(A) Take all practicable steps to develop continuing sources of financial support for the Center, particularly from sources in the private sector;

(B) Make arrangements for the activities by the nonprofit institution operating the Center to be monitored and evaluated; and

(C) Provide an accounting for the money received by the grantee under this subpart.

(vii) *Delivery of Cooperative development assistance.* The applicant must describe its previous accomplishments and outcomes in Cooperative development activities and/or its potential for effective delivery of Cooperative development services to rural areas. The applicant should also describe the type(s) of assistance to be provided, the expected impacts of that assistance, the sustainability of cooperative organizations receiving the assistance, and the transferability of its Cooperative development strategy and focus to other areas of the U.S.

(viii) *Qualifications of Personnel.* Applicants must describe the qualifications of personnel expected to perform key center tasks, and whether these personnel are to be full/part-time Center employees or contract personnel. Those personnel having a track record of positive solutions for complex cooperative development or marketing problems, or those with a record of conducting feasibility studies that later proved to be accurate, business planning, marketing analysis, or other activities relevant to the Center's success should be highlighted.



(ix) *Support and commitments.* Applicants must describe the level of support and commitment in the community for the proposed Center and the services it would provide. Plans for coordinating with other developmental organizations in the proposed service area, or with state and local government institutions should be included. Letters supporting cooperation and coordination from potential local customers should be provided.

(x) *Future support.* Applicants should describe their vision for Center operations beyond the first year, including issues such as sources and uses of alternative funding; reliance on Federal, state, and local grants; and the use of in-house personnel for providing services versus contracting out for that expertise. To the extent possible, applicants should document future funding sources that will help achieve long-term sustainability of the Center.

(xi) *Evaluation criteria.* Each of the evaluation criteria referenced in the RFP must be specifically and individually addressed in narrative form.

(6) *Verification of Matching Funds.* Applicants must provide a budget to support the work plan showing all sources and uses of funds during the project period. Applicants will be required to verify matching funds, both cash and in-kind. Sufficient information should be included such that USDA can verify all representations.

(7) *Certification.* Applicants must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that matching funds will be spent in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds will have been funded prior to submitting the request for advance.

#### §4284.511 Evaluation screening.

The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible and whether the application is complete and sufficiently responsive to the requirements set forth in the applicable RFP so as to allow for an informed review. Incomplete or non-responsive applications will not be evaluated further.

Applicants may revise their applications and re-submit them prior to the published deadline if there is sufficient time to do so.

#### §4284.512 Evaluation process.

(a) Applications will be evaluated by qualified reviewers appointed by the Agency.

(b) After all proposals have been evaluated using the evaluation criteria and scored in accordance with the point allocation specified in the applicable RFP, the Agency will present to the Administrator of RBS a list of all applications in rank order, together with funding level recommendations.

#### §4284.513 Evaluation criteria and weights.

Unless supplemented in a RFP, the criteria listed in this section will be used to evaluate grants under this subpart. Preference will be given to items in paragraphs (a) through (f) of this section. The distribution of points to be awarded per criterion will be identified in the applicable RFP.

(a) *Administrative capabilities.* The application will be evaluated to determine whether the subject Center has a track record of administering a nationally coordinated, regional or state-wide operated project. Centers that have capable financial systems and audit controls, personnel and program administration performance measures and clear rules of governance will receive more points than those not evidencing this capacity.

(b) *Technical assistance and other services.* The Agency will evaluate the applicant's demonstrated expertise in providing technical assistance in Rural areas.

(c) *Economic development.* The Agency will evaluate the applicant's demonstrated ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches and generate employment opportunities that will improve the economic conditions of rural areas.

(d) *Linkages.* The Agency will evaluate the applicant's demonstrated ability to create horizontal linkages among businesses within and among various sectors in rural areas of the

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United States and vertical linkages to domestic and international markets.

(e) *Commitment.* The Agency will evaluate the applicant's commitment to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the United States.

(f) *Matching Funds.* All applicants must demonstrate Matching Funds equal to at least 25 percent (5 percent for 1994 Institutions) of the grant amount requested. Applications exceeding these minimum commitment levels will receive more points.

(g) *Delivery.* The Agency will evaluate whether the Center has a track record in providing technical assistance in rural areas and accomplishing effective outcomes in cooperative development. The Center's potential for delivering effective cooperative development assistance, the expected effects of that assistance, the sustainability of cooperative organizations receiving the assistance, and the transferability of the Center's cooperative development strategy and focus to other States will also be assessed.

(h) *Work Plan/Budget.* The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic and efficient plans will result in a higher score. Budgets will be reviewed for completeness and the quality of non Federal funding commitments.

(i) *Qualifications of those Performing the Tasks.* The application will be evaluated to determine if the personnel expected to perform key center tasks have a track record of positive solutions for complex Cooperative development or marketing problems, or a successful record of conducting accurate feasibility studies, business plans, marketing analysis, or other activities relevant to Cooperative development center success.

(j) *Local support.* Applications will be reviewed for previous and expected local support for the Center, plans for coordinating with other developmental organizations in the proposed service area and coordination with state and local institutions. Support documentation should include recognition of rural values that balance employment oppor-

tunities with environmental stewardship and other positive rural amenities. Centers that demonstrate strong support from potential beneficiaries and formal evidence of the Center's intent to coordinate with other developmental organizations will receive more points than those not evidencing such support and formal intent.

(k) *Future support.* Applications that demonstrate their vision for funding center operations for future years, including diversification of funding sources and building in-house technical assistance capacity, will receive more points for this criterion.

#### § 4284.514 Grant closing.

(a) *Letter of Conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's "Letter of Intent to Meet Conditions," or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must enter into the Agency's "Agriculture Innovation Center Grant Agreement" prior to the advance of funds.

#### §§ 4284.515–4284.599 [Reserved]

#### § 4284.600 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0570–0006 in accordance with the Paperwork Reduction Act of 1995.

### Subpart G—Rural Business Opportunity Grants

SOURCE: 64 FR 71986, Dec. 23, 1999, unless otherwise noted.

## RBS and RUS, USDA

## § 4284.603

### § 4284.601 Purpose.

This subpart outlines Agency policies and authorizations and sets forth procedures for making grants to provide technical assistance for business development and conduct economic development planning in rural areas. The purpose of this program is to promote sustainable economic development in rural communities with exceptional needs by:

(a) Promoting economic development that is sustainable over the long term through local effort without subsidies or external support and that leads to improvements in quality as well as the quantity of economic activity in the community;

(b) Catalyzing economic development projects by providing critical investments that enable effective development projects to be undertaken by rural communities that, with the Rural Business Opportunity Grants (RBOG) assistance, will be able to identify their needs and take full advantage of available resources and opportunities;

(c) Focusing assistance on priority communities (defined in § 4284.603); and

(d) Sponsoring economic development activities with significant potential to serve as examples of “best practices” that merit implementation in rural communities in similar circumstances.

### § 4284.602 Policy.

(a) The grant program will be used to assist in the economic development of rural areas.

(b) Funds allocated for use in accordance with this subpart are also to be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State’s boundaries. Indians residing on such reservations must have equal opportunity, along with other rural residents, to participate in the benefits of these programs.

### § 4284.603 Definitions.

**Agency.** The Federal agency within the United States Department of Agriculture (USDA) with responsibility assigned by the Secretary of Agriculture to administer the RBOG Program. At the time of publication, that agency is

the Rural Business-Cooperative Service.

**Best practice project.** An action that has potential applicability in other rural communities and which potentially has instructional value when shared with those communities.

**Business support centers.** Centers established to provide assistance to businesses in such areas as counseling, business planning, training, management assistance, marketing information, and locating financing for business operations. The centers need not be located in a rural area, but must provide assistance to businesses located in rural areas.

**Economic development.** The industrial, business and financial augmentation of an area as evidenced by increases in total income, employment opportunities, value of production, duration of employment, or diversification of industry, reduced outmigration, higher labor force participation rates or wage levels, or gains in other measurements of economic activity, such as land values.

**Long-term.** The period of time covered by the three most recent decennial censuses of the United States to the present.

**Planning.** A process to coordinate economic development activities, develop guides for action, or otherwise assist local community leaders in the economic development of rural areas.

**Priority communities.** Communities targeted for Agency assistance as determined by the USDA Under Secretary for Rural Development. Priority communities are those that are experiencing trauma due to natural disasters or are undertaking or completing fundamental structural changes, have remained persistently poor, or have experienced long-term population decline or job deterioration.

**Project.** The result of the use of grant funds provided under this subpart through technical assistance or planning relating to the economic development of a rural area.

**Rural and rural area.** Any area other than a city or town that has a population of greater than 50,000 inhabitants including the urbanized area contiguous and adjacent to such a city or town. The population figure used

must be in accordance with the latest decennial census of the United States.

*State.* Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

*Sustainable development.* Development planned and designed to consider and balance environmental quality, economic needs, and social concerns.

*Technical assistance.* A nonconstruction, problem solving activity performed for the benefit of a business or community to assist in the economic development of a rural area. The Agency will determine whether a specific activity qualifies as technical assistance.

*United States.* The 50 States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

[64 FR 71986, Dec. 23, 1999, as amended at 67 FR 63538, Oct. 15, 2002]

**§§ 4284.604–4287.619 [Reserved]**

**§ 4284.620 Applicant eligibility.**

(a) Grants may be made to public bodies, nonprofit corporations, Indian tribes on Federal or State reservations and other Federally recognized tribal groups, and cooperatives with members that are primarily rural residents and that conduct activities for the mutual benefit of the members.

(b) Applicants must have sufficient financial strength and expertise in activities proposed in the application to ensure accomplishment of the described activities and objectives.

(1) Financial strength will be analyzed by the Agency based on financial data provided in the application. The analysis will consider the applicant's tangible net worth, which must be positive, and whether the applicant has dependable sources of revenue or a suc-

cessful history of raising revenue sufficient to meet cash requirements.

(2) Expertise will be analyzed by the Agency based on the applicant staff's training and experience in activities similar to those proposed in the application and, if consultants will be used, on the staff's experience in choosing and supervising consultants.

(c) Any delinquent debt to the Federal Government shall cause the applicant to be ineligible to receive any RBOG funds until the debt has been paid.

**§ 4284.621 Eligible grant purposes.**

(a) Grant funds may be used to assist in the economic development of rural areas by providing technical assistance for business development and economic development planning. Grant funds may be used for, but are not limited to, the following purposes:

(1) Identify and analyze business opportunities that will use local rural materials or human resources. This includes opportunities in export markets, as well as feasibility and business plan studies.

(2) Identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

(3) Establish business support centers and otherwise assist in the creation of new rural businesses;

(4) Conduct local community or multi-county economic development planning;

(5) Establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets;

(6) Conduct leadership development training of existing or prospective rural entrepreneurs and managers; or

(7) Pay reasonable fees and charges for professional services necessary to conduct the technical assistance, training, or planning functions.

(b) Grants may be made only when there is a reasonable prospect that the project will result in the economic development of a rural area.

(c) Grants may be made only when the proposal includes a basis for determining the success or failure of the project and individual major elements

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of the project and outlines procedures that will be taken to assess the project's impact at its conclusion.

(d) Grants may be made only when the proposed project is consistent with local and area-wide strategic plans for community and economic development, coordinated with other economic development activities in the project area and consistent with any USDA Rural Development State Strategic Plan.

(e) A grant may be considered for the amount needed to assist with the completion of a proposed project, provided that the project can reasonably be expected to be completed within 2 full years after it is begun. If grant funds are requested to establish or assist with an activity of more than 2 years duration, the amount of a grant approved in any fiscal year will be limited to the amount needed to assist with no more than 1 full year of operation. Subsequent grant requests may be considered in subsequent years, if needed to continue the operation, but funding for 1 year provides no assurance of additional funding in subsequent years.

### §§ 4284.622–4287.628 [Reserved]

#### § 4284.629 Ineligible grant purposes.

Grant funds may not be used to:

(a) Duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond what is currently being provided;

(b) Pay costs of preparing the application package for funding under this program;

(c) Pay costs of the project incurred prior to the effective date of the grant made under this subpart;

(d) Fund political activities;

(e) Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(f) Pay any judgment or debt owed to the United States; or

(g) Pay costs of real estate acquisition or development or building construction.

#### § 4284.630 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to title VI of the Civil Rights Act of 1964 and part 1901, subpart E of this title.

(b) *Environmental review.* All grants made under this subpart are subject to the requirements of subpart G of part 1940 of this title. Applications for technical assistance or planning projects are generally excluded from the environmental review process by § 1940.333 of this title provided the assistance is not related to the development of a specific site. Applicants for grant funds must consider and document within their plans the important environmental factors within the planning area and the potential environmental impacts of the plan on the planning area, as well as the alternative planning strategies that were reviewed.

(c) *Other USDA regulations.* This program is subject to the provisions of the following regulations, as applicable;

(1) 7 CFR part 3015, Uniform Federal Assistance Regulations;

(2) 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

(3) 7 CFR part 3017, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(4) 7 CFR part 3018, New Restrictions on Lobbying;

(5) 7 CFR part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and

(6) 7 CFR part 3052, Audits of States, Local Governments, and Non-profit Organizations.

### §§ 4284.631–4284.637 [Reserved]

#### § 4284.638 Application processing.

(a) *Applications.* (1) Applicants will file an original and one copy of "Application For Federal Assistance (For Nonconstruction)," with the Agency

State Office (available in any Agency office).

(2) All applications shall be accompanied by:

(i) Copies of applicant's organizational documents showing the applicant's legal existence and authority to perform the activities under the grant;

(ii) A proposed scope of work, including a description of the proposed project, details of the proposed activities to be accomplished and timeframes for completion of each task, the number of months duration of the project, and the estimated time it will take from grant approval to beginning of project implementation;

(iii) A written narrative which includes, at a minimum, the following items:

(A) An explanation of why the project is needed, the benefits of the proposed project, and how the project meets the grant selection criteria;

(B) Area to be served, identifying each governmental unit, i.e., town, county, etc., to be affected by the project;

(C) Description of how the project will coordinate economic development activities with other economic development activities within the project area;

(D) Business to be assisted, if appropriate; economic development to be accomplished;

(E) An explanation of how the proposed project will result in increased or saved jobs in the area and the number of projected new and saved jobs;

(F) Description of the applicant's demonstrated capability and experience in providing the proposed project assistance or similar economic development activities, including experience of key staff members and persons who will be providing the proposed project activities and managing the project;

(G) Method and rationale used to select the areas and businesses that will receive the service;

(H) Brief description of how the work will be performed including whether organizational staff or consultants or contractors will be used; and

(I) Other information the Agency may request to assist it in making a grant award determination.

(iv) The latest financial information to show the organization's financial ca-

capacity to carry out the proposed work. At a minimum, the information should include the most recent balance sheet and an income statement. A current audited report is required if available;

(v) An evaluation method to be used by the applicant to determine if objectives of the proposed activity are being accomplished; and

(vi) Intergovernmental review comments from the State Single Point of Contact, or evidence that the State has elected not to review the program under Executive Order 12372.

(b) *Letter of conditions.* The Agency will notify the approved applicant in writing, setting out the conditions under which the grant will be made.

(c) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return a "Letter of Intent to Meet Conditions," to the Agency; or if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

**§ 4284.639 Grant selection criteria.**

Agency officials will select projects to receive assistance under this program according to the following criteria:

(a) A score of 0 to 10 points will be awarded based on the Agency assessment of the extent to which economic development resulting from the proposed project will be sustainable over the long term by local efforts, without the need for continued subsidies by governments or other organizations outside the community.

(b) A score of 0 to 10 points will be awarded based on the Agency assessment of the extent to which the project should lead to improvements in the quality of economic activity within the community, such as higher wages, improved benefits, greater career potential, and the use of higher levels of skills than currently are typical within the economy.

(c) If the grant will fund a critical element of a larger program of economic development, without which the

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overall program either could not proceed or would be far less effective, or if the program to be assisted by the grant will also be partially funded from other sources, points will be awarded as follows based on the percentage of the cost of the overall program that will be funded by the grant.

- (1) Less than 20 percent—30 points;
- (2) 20 but less than 50 percent—20 points;
- (3) 50 but less than 75 percent—10 points; or
- (4) More than 75 percent—0 points.

(d) Points will be awarded for each of the following criteria met by the community or communities that will receive the primary benefit of the grant. However, regardless of the mathematical total of points indicated by paragraphs (d)(1) through (d)(5) of this section, total points awarded under paragraph (d) must not exceed 40.

(1) Experiencing trauma due to a major natural disaster that occurred not more than 3 years prior to the filing of the application for RBOG assistance—15 points;

(2) Undergoing fundamental structural change in the local economy, such as that caused by the closing or major downsizing of a military facility or other major employer not more than 3 years prior to the filing of the application for RBOG assistance—15 points;

(3) Has experienced long-term poverty—10 points;

(4) Has experienced long-term population decline—10 points; and

(5) Has experienced long-term job deterioration—10 points.

(e) A score of 0 to 10 points will be awarded based on the Agency determination of the extent of the project's usefulness as a new best practice as defined in § 4284.603.

(f) The State Director may assign up to 15 discretionary points to an application. If allocation of funds under National Office control is being considered, the Agency Administrator may assign up to 20 additional discretionary points. Assignment of discretionary points by either the State Director or the Agency Administrator must include a written justification. Permissible justifications are geographic distribution of funds, special importance for implementation of a strategic plan

in partnership with other organizations, or extraordinary potential for success due to superior project plans or qualifications of the grantee.

### **§ 4284.640 Appeals.**

Any appealable adverse decision made by the Agency may be appealed in accordance with USDA appeal regulations found at 7 CFR part 11. If the Agency makes a determination that a decision is not appealable, a request for a determination of appealability may be made to the National Appeals Staff.

### **§§ 4284.641–4287.646 [Reserved]**

### **§ 4284.647 Grant approval and obligation of funds.**

(a) The following statement will be entered in the comment section of the Request For Obligation of Funds, which must be signed by the grantee:

The grantee certifies that it is in compliance with and will continue to comply with all applicable laws; regulations; Executive Orders; and other generally applicable requirements, including those contained in 7 CFR part 4284, subpart G, and 7 CFR parts 3015, 3016, 3017, 3018, 3019, and 3052 in effect on the date of grant approval; and the approved Letter of Conditions.

(b) [Reserved]

### **§ 4284.648 Fund disbursement.**

The Agency will determine, based on 7 CFR parts 3015, 3016, and 3019, as applicable, whether disbursement of a grant will be by advance or reimbursement. A Request for Advance or Reimbursement, (available in any Agency office) must be completed by the grantee and submitted to the Agency no more often than monthly to request either advance or reimbursement of funds.

### **§§ 4284.649–4284.655 [Reserved]**

### **§ 4284.656 Reporting.**

(a) A Financial Status Report (available in any Agency office) and a project performance activity report will be required of all grantees on a quarterly basis. The grantee will cause said program to be completed within the total sums available to it, including the grant, in accordance with the scope of work and any necessary modifications

thereof prepared by grantee and approved by the Agency. A final project performance report will be required with the final Financial Status Report. The final report may serve as the last quarterly report. The final report must provide complete information regarding the jobs created and saved as a result of the grant. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees are to submit an original of each report to the Agency. The project performance reports shall include, but not be limited to, the following:

(1) A comparison of actual accomplishments to the objectives established for that period;

(2) Problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(3) Objectives and timetable established for the next reporting period.

(b) Within 1 year after the conclusion of the project, the grantee will provide a project evaluation report based on criteria developed in accordance with §§ 4284.621(c) and 4284.638(a)(2)(v).

(c) The Agency may also require grantees to prepare a report suitable for public distribution describing the accomplishments made through the use of the grant and, in the case where the grant funded the development or application of a “best practice,” to describe that “best practice.”

(d) The grantee will provide for Financial Management Systems which will include:

(1) Accurate, current, and complete disclosure of the financial result of each grant.

(2) Records which identify adequately the source and application of funds for grant-supporting activities, together with documentation to support the records. Those records shall contain information pertaining to grant awards

and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(3) Effective control over and accountability for all funds. Grantee shall adequately safeguard all such assets and shall assure that funds are used solely for authorized purposes.

(e) The grantee will retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after grant closing except that the records shall be retained beyond the 3-year period if audit findings have not been resolved or if directed by the United States. Microfilm copies may be substituted in lieu of original records. The Agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcripts.

#### § 4284.657 Audit requirements.

Grantees must provide an annual audit in accordance with 7 CFR part 3052. The audit requirements apply to the years in which grant funds are received and years in which work is accomplished that will be paid for with grant funds.

#### §§ 4284.658–4284.666 [Reserved]

#### § 4284.667 Grant servicing.

Grants will be serviced in accordance with part 1951, subparts E and O, of this title. Grantees will permit periodic inspection of the program operations by a representative of the Agency. All non-confidential information resulting from the Grantee’s activities shall be made available to the general public on an equal basis.

#### § 4284.668 Programmatic changes.

The Grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination, and recovery of grant funds.



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## **§ 4284.907**

**§§ 4284.669–4284.683 [Reserved]**

### **§ 4284.684 Exception authority.**

The Administrator may, in individual cases, grant an exception to any requirement or provision of this subpart provided the Administrator determines that application of the requirement or provision would adversely affect USDA's interest.

**§§ 4284.685–4284.698 [Reserved]**

### **§ 4284.699 Member delegate clause.**

No member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

### **§ 4284.700 OMB control number.**

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0570-0024 in accordance with the Paperwork Reduction Act of 1995. You are not required to respond to this collection of information unless it displays a valid OMB control number.

## **Subparts H–I [Reserved]**

## **Subpart J—Value-Added Producer Grants**

SOURCE: 69 FR 23430, Apr. 29, 2004, unless otherwise noted.

### **§ 4284.901 Purpose.**

This subpart implements the Value-Added agricultural product market development grant program (Value-Added Producer Grants) administered by the Rural Business-Cooperative Service whereby grants are made to enable producers to develop businesses that produce and market Value-Added agricultural products.

### **§ 4284.902 Policy.**

It is the policy of the Secretary of Agriculture to fund a broad diversity of

projects that help increase the agricultural producers' customer base and share of the food and agricultural system profit.

### **§ 4284.903 Program administration.**

The Value-Added Producer Grant program is administered by Cooperative Services within the Agency.

### **§ 4284.904 Definitions.**

*Planning Grants*—Grants to facilitate the development of a defined program of economic activities to determine the viability of a potential Value-Added venture, including feasibility studies, marketing strategies, business plans and legal evaluations.

*Working Capital Grants*—Grants to provide funds to operate ventures and pay the normal expenses of the venture that are eligible uses of grant funds.

**§§ 4284.905–4284.906 [Reserved]**

### **§ 4284.907 Eligibility for grant assistance.**

(a) The proposed project must evidence a high likelihood of creating Value-Added for an Agricultural Product.

(b) Independent Producers, Agricultural producer groups, Farmer or Rancher cooperatives and Majority-Controlled Producer-Based Business Ventures, are eligible for grants under this subpart.

(c) An applicant that is a Farmer or Rancher cooperative, an Agriculture producer group or a Majority-Controlled Producer-Based Business Venture must be entering into an Emerging Market as a result of the proposed project. An applicant that is an Independent Producer does not have to be entering into an Emerging Market.

(d) No project may be the subject of more than one Planning Grant or more than one Working Capital Grant under this subpart. The same project may, however, be awarded one Planning Grant and subsequently apply for and receive a Working Capital Grant.

(e) Not more than one project per funding cycle per applicant may receive grant funding under this subpart.

## § 4284.908

### § 4284.908 Use of grant and matching funds.

(a) An application may be for either a Planning Grant or a Working Capital Grant, but not both.

(b) Grant funds may be used to pay up to 50 percent of the costs for carrying out relevant projects. Matching funds must be provided for the balance of costs.

(c) Matching funds may only be used for the same purposes allowed for grant funds.

(d) Planning Grant funds may be used to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a Value-Added producer. These uses include, but are not limited to, the following:

(1) Conduct, or hire a qualified consultant to conduct, a feasibility analysis of the proposed value added project to help determine the potential success of the project;

(2) Develop, or hire a qualified consultant to develop, a business operations plan that provides comprehensive detail on the management, planning and other operational aspects of the proposed project; and

(3) Develop, or hire a qualified consultant to develop, a marketing plan for the proposed Value-Added product(s) including the identification of a market window, potential buyers, a description of the distribution system and possible promotional campaigns;

(e) Working Capital Grant funds may be used to provide capital to establish alliances or business ventures that allow the producer of the Value-Added agricultural product to better compete in domestic or international markets. These uses include, but are not limited to, the following:

(1) Establish a working capital account to fund operations prior to obtaining sufficient cash flow from operations;

(2) Hire counsel to provide legal advice and to draft organizational and other legal documents related to the proposed venture;

(3) Hire a Certified Public Accountant or other qualified individual to design an accounting system for the proposed venture; and

(4) Pay salaries, utilities and other operating costs such as inventory fi-

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nancing, the purchase of office equipment, computers and supplies and finance other related activities.

### § 4284.909 Limitations on use of funds and awards.

(a) In addition to the limitations provided in 7 CFR subpart A, neither grant nor matching funds may be used to fund architectural or engineering design work, or other planning work, for a physical facility;

(b) The total amount provided to any Value-Added project shall not exceed \$500,000;

(c) The aggregate amount of awards to majority controlled producer-based business ventures may not exceed ten percent of the total funds obligated under this subpart during any fiscal year.

### § 4284.910 Application processing.

(a) *Applications.* USDA will solicit applications on a competitive basis by publication of one or more RFPs. Unless otherwise specified in the applicable RFP, applicants must file an original and one copy of the required forms and a proposal.

(b) *Required forms.* The following forms must be completed, signed and submitted as part of the application package. Other forms may be required. This will be published in the applicable RFP.

(1) "Application for Federal Assistance."

(2) "Budget Information—Non-Construction Programs."

(3) "Assurances—Non-Construction Programs."

(c) *Proposal.* Each proposal must contain the following elements. Additional elements may be published in the applicable RFP.

(1) Title Page.

(2) Table of Contents.

(3) *Executive Summary.* A summary of the proposal should briefly describe the project including goals, tasks to be completed and other relevant information that provides a general overview of the project. In this section the applicant must clearly state whether the application is for a Planning Grant or a Working Capital Grant and the amount requested.

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(4) *Eligibility.* The narrative must include a detailed discussion of how the applicant meets the eligibility requirements.

(5) *Proposal Narrative.* The narrative portion of the proposal must include, but is not limited to, the following:

(i) *Project Title.* The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(ii) *Information Sheet.* A separate one page information sheet listing each of the evaluation criteria referenced in the RFP followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria.

(iii) *Goals of the Project.* A clear statement of the ultimate goals of the project. There must be an explanation of how a market will be expanded and the degree to which incremental revenue will accrue to the benefit of the agricultural producer(s).

(iv) *Work Plan.* The narrative must contain a description of the project and set forth the tasks involved in reasonable detail.

(v) *Performance Evaluation Criteria.* Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal receives grant funding under this subpart. These suggested criteria are not binding on USDA.

(vi) *Proposal Evaluation Criteria.* Each of the proposal evaluation criteria referenced in the RFP must be addressed, specifically and individually, in narrative form.

(6) *Verification of Matching Funds.* Applicants must provide a budget to support the work plan showing all sources and uses of funds during the project period. Applicants will be required to verify matching funds, both cash and in-kind. Sufficient information should be included such that USDA can verify all representations.

(7) *Certification.* Applicants must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that matching funds will be spent in advance of grant funding, such that for every dollar of grant that is advanced, not less than an equal amount of match funds will have been funded

prior to submitting the request for reimbursement.

### §4284.911 Evaluation screening.

The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible and whether the application is complete and sufficiently responsive to the requirements set forth in the RFP to allow for an informed review. Failure to address any of the required evaluation criteria will disqualify the proposal. Submissions which do not pass the initial screening may be returned to the Applicant. If the submission deadline has not expired and time permits, returned applications may be revised and re-submitted.

### §4284.912 Evaluation process.

(a) Applications will be evaluated by agricultural economists or other technical experts appointed by the Agency.

(b) After all proposals have been evaluated and scored in accordance with the point allocation specified in the applicable RFP, Agency officials will present to the Administrator of RBS a list of all applications in rank order, together with funding level recommendations.

(c) The Administrator reserves the right to award additional points, as specified in the applicable RFP, to accomplish agency objectives (e.g., to ensure geographic distribution, distribution of a commodity or accomplish presidential initiatives.) The maximum number of points that can be added to an application cannot exceed ten percent of the total points of the original score.

(d) After giving effect to the Administrator's point awards, applications will be funded in rank order until all available funds have been obligated.

(e) In the event an insufficient number of eligible applications are received in response to a given RFP, time permitting, subsequent rounds of competition will be initiated by publishing subsequent RFPs.

(f) Unless a proposal is withdrawn, eligible but unfunded proposals from preceding competitions in a given fiscal year will be considered for funding in subsequent competitions in the same fiscal year.

**§ 4284.913 Evaluation criteria and weights.**

Unless supplemented in a RFP, the criteria listed in this section will be used to evaluate proposals submitted under this subpart. The distribution of points to be awarded per criterion will be identified in the applicable RFP.

(a) *Planning Grants.* (1) Nature of the proposed venture. Projects will be evaluated for technological feasibility, operational efficiency, profitability, sustainability and the likely improvement to the local rural economy. Points will be awarded based on the greatest expansion of markets and increased returns to producers. Evaluators may rely on their own knowledge and examples of similar ventures described in the proposal to form conclusions regarding this criterion.

(2) *Qualifications of those doing work.* Proposals will be reviewed for whether the personnel who are responsible for doing proposed tasks, including those hired to do studies, have the necessary qualifications. If a consultant or others are to be hired, more points may be awarded if the proposal includes evidence of their availability and commitment as well.

(3) *Project leadership.* The leadership abilities of individuals who are proposing the venture will be evaluated as to whether they are sufficient to support a conclusion of likely project success. Credit may be given for leadership evidenced in community or volunteer efforts.

(4) *Commitments and support.* Producer commitments will be evaluated on the basis of the number of Independent Producers currently involved as well as how many may potentially be involved, and the nature, level and quality of their contributions. End user commitments will be evaluated on the basis of potential markets and the potential amount of output to be purchased. Proposals will be reviewed for evidence that the project enjoys third party support and endorsement, with emphasis placed on financial and in kind support as well as technical assistance.

(5) *Work plan/Budget.* The work plan will be reviewed to determine whether it provides specific and detailed planning task descriptions that will accomplish the project's goals. The budget

will be reviewed for a detailed breakdown of estimated costs associated with the planning activities. The budget must present a detailed breakdown of all estimated costs associated with the planning activities and allocate these costs among the listed tasks. Points may not be awarded unless sufficient detail is provided to determine whether or not funds are being used for qualified purposes. Matching funds as well as grant funds must be accounted for in the budget to receive points.

(6) *Amount requested.* Points will be awarded based on the size of the grant request. Generally, requests for lower amounts will receive a higher score for this criterion than higher requests. The points to be awarded and request ranges will be established in the applicable RFP.

(7) *Project cost per owner-producer.* This is calculated by dividing the amount of Federal funds requested by the total number of producers that are owners of the venture. Points to be awarded will be established in the applicable RFP.

(8) *Presidential initiatives.* Points may be awarded for proposals that focus on Presidential initiatives. Descriptions of these initiatives and the points to be awarded will be established in the applicable RFP.

(b) *Working Capital Grants—(1) Business viability.* Proposals will be evaluated on the basis of the technical and economic feasibility and sustainability of the venture and the efficiency of operations.

(2) *Customer base/increased returns.* Proposals that demonstrate strong growth in a market or customer base and greater Value-Added revenue accruing to producer-owners will receive more points than those that demonstrate less growth in markets and realized Value-Added returns.

(3) *Commitments and support.* Producer commitments will be evaluated on the basis of the number of Independent Producers currently involved as well as how many may potentially be involved, and the nature, level and quality of their contributions. End user commitments will be evaluated on the basis of identified markets, letters of intent or contracts from potential buyers and the amount of output to be purchased.

Proposals will be reviewed for evidence that the project enjoys third party support and endorsement, with emphasis placed on financial and in kind support as well as technical assistance.

(4) *Management team/work force.* The education and capabilities of project managers and those who will operate the venture must reflect the skills and experience necessary to effect project success. The availability and quality of the labor force needed to operate the venture will also be evaluated. Proposals that reflect successful track records managing similar projects will receive higher points for this criterion than those that do not reflect successful track records.

(5) *Work plan/Budget.* The work plan will be reviewed for whether it provides specific and detailed planning task descriptions that will accomplish the project's goals and the budget will be reviewed for a detailed breakdown of estimated costs associated with the planning activities. The budget must present a detailed breakdown of all estimated costs associated with the venture's operations and allocate these costs among the listed tasks. Points may not be awarded unless sufficient detail is provided to determine whether or not funds are being used for qualified purposes. Matching funds as well as grant funds must be accounted for in the budget to receive points.

(6) *Amount requested.* Points will be awarded based on the size of the grant request. Requests for lower amounts will receive a higher score for this criterion than higher requests. The points to be awarded and request ranges will be established in the applicable RFP.

(7) *Project cost per owner-producer.* This is calculated by dividing the amount of Federal funds requested by the total number of producers that are owners of the venture. Points to be awarded will be established in the applicable RFP.

(8) *Presidential initiatives.* Points may be awarded for proposals that focus on Presidential initiatives. Descriptions of these initiatives and the points to be awarded will be established in the applicable RFP.

#### § 4284.914 Grant closing.

(a) *Letter of Conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's "Letter of Intent to Meet Conditions," or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must sign the Agency's "Value-Added Producer Grant Agreement" prior to the advance of funds.

#### §§ 4284.915–4284.999 [Reserved]

#### § 4284.1000 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570-0039 in accordance with the Paperwork Reduction Act of 1995.

### Subpart K—Agriculture Innovation Demonstration Centers

SOURCE: 69 FR 23433, Apr. 29, 2004, unless otherwise noted.

#### § 4284.1001 Purpose.

This subpart implements a demonstration program administered by the Rural Business-Cooperative Service whereby grants are made to innovation centers responsible for providing technical and business development assistance to agricultural producers seeking to engage in the marketing or the production of Value-Added products.

#### § 4284.1002 Policy.

It is the policy of the Secretary of Agriculture to fund Centers which evidence broad support from the agricultural community in the state or region, significant coordination with end

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users (processing and distribution companies and regional grocers), strategic alliances with entities having technical research capabilities and a focused delivery plan for reaching out to the producer community. It is also the policy of the Secretary, using the research and technical services of the U.S. Department of Agriculture, to assist the grantees in establishing Centers. This program is not intended to fund scientific research.

### § 4284.1003 Program administration.

The Agriculture Innovation Demonstration Center program is administered by Cooperative Services within the Agency.

### § 4284.1004 Definitions.

*Board of Directors*—The group of individuals that govern the Center.

*Center*—The Agriculture Innovation Center to be established and operated by the grantees. It may or may not be an independent legal entity, but it must be independently governed in accordance with the requirements of this subpart.

*Producer Services*—Services to be provided by the Centers to agricultural producers. Producer Services consist of the following types of services:

(1) Technical assistance, consisting of engineering services, applied research, Scale Production Assessments, and similar services, to enable the agricultural producers to establish businesses to produce Value-Added agricultural commodities or products;

(2) Assistance in marketing, market development and business planning, including advisory services with respect to leveraging capital assets; and

(3) Organizational, outreach and development assistance to increase the viability, growth and sustainability of businesses that produce Value-Added agricultural commodities or products.

*Qualified Board of Directors*—A Board of Directors that includes representatives from each of the following groups:

(1) The two general agricultural organizations with the greatest number of members in the State in which the Center is located;

(2) The State department of agriculture, or equivalent, of the State in which the Center is located; and

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(3) Entities representing the four highest grossing commodities produced in the State in which the Center is located, as determined on the basis of annual gross cash sales.

*Scale Production Assessments*—Studies that analyze facilities, including processing facilities, for potential Value-added activities in order to determine the size that optimizes construction and other cost efficiencies.

### §§ 4284.1005–4284.1006 [Reserved]

### § 4284.1007 Eligibility for grant assistance.

Non-profit and for-profit corporations, institutions of higher learning and other entities, including a consortium where a lead entity has been designated and agrees to act as funding agent, that meet the following requirements are eligible for grant assistance:

(a) The entity—

(1) Has provided services similar to those listed for Producer Services; or

(2) Demonstrates the capability of providing Producer Services;

(b) The application includes a plan that meets the requirements of § 4284.1010(c)(5)(iv) that also outlines—

(1) The support for the entity in the agricultural community;

(2) The technical and other expertise of the entity; and

(3) The goals of the entity for increasing and improving the ability of local agricultural producers to develop markets and processes for Value-Added agricultural commodities or products;

(c) The entity demonstrates that adequate resources (in cash or in kind) are available, or have been committed to be made available to the entity, to increase and improve the ability of local agricultural producers to develop markets and processes for Value-Added agricultural commodities or products; and

(d) The proposed Center has a Qualified Board of Directors.

### § 4284.1008 Use of grant funds.

Grant funds may be used to assist eligible recipients in establishing Centers that provide Producer Services and may only be used to support operations of the Center that directly relate to providing Producer Services. Grant

funds may be used for the following purposes, subject to the limitations set forth in § 4284.10:

- (a) Consulting services for legal, accounting and technical services to be used by the grantee in establishing and operating a Center;
- (b) Hiring of employees, at the discretion of the Qualified Board of Directors;
- (c) The making of matching grants to agricultural producers, individually not to exceed \$5,000, where the aggregate amount of all such matching grants made by the grantee does not exceed \$50,000;
- (d) Applied research;
- (e) Legal services; and
- (f) Such other related purposes as the Agency may announce in the RFP.

#### § 4284.1009 Limitations on awards.

The maximum grant award for an agriculture innovation center shall be in an amount that does not exceed the lesser of \$1,000,000 or twice the dollar amount of the resources (in cash or in kind) that the eligible entity demonstrates are available, or have been committed to be made available, to the eligible entity.

#### § 4284.1010 Application processing.

(a) *Applications.* USDA will solicit applications on a competitive basis by publication of one or more Requests for Proposals (RFPs). Unless otherwise specified in the applicable RFP, applicants must file an original and one copy of the required forms and a proposal.

(b) *Required forms.* The following forms must be completed, signed and submitted as part of the application package. Other OMB approved forms may be required. This will be published in the applicable RFP.

- (1) "Application for Federal Assistance."
- (2) "Budget Information—Non-Construction Programs."
- (3) "Assurances—Non-Construction Programs."

(c) *Proposal.* Each proposal must contain the following elements. Additional elements may be published in the applicable RFP.

- (1) Title Page.
- (2) Table of Contents.

(3) *Executive Summary.* A summary of the proposal should briefly describe the project including goals, tasks to be completed and other relevant information that provides a general overview of the project and the amount requested.

(4) *Eligibility.* A detailed discussion describing how the applicant meets the eligibility requirements.

(5) *Proposal Narrative.* The narrative portion of the proposal must include, but is not limited to, the following:

(i) *Project Title.* The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project.

(ii) *Information Sheet.* A separate one page information sheet listing each of the evaluation criteria referenced in the RFP followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria.

(iii) *Goals of the Project.* The first part of this section should list each Producer Service to be offered by the Center. The second part of this section should list one or more specific goals relating to increasing and improving the ability of identified local agricultural producers to develop a market or process for Value-Added agricultural commodities or products.

(iv) *Work Plan.* Actions that must be taken in order for the Producer Services to be available from the Center. Each action listed should include a target date by which it will be completed. General start up tasks should be listed, followed by specific tasks listed for each Producer Service to be offered, as well as tasks associated with the start of operations. The tasks associated with the start of operations should include a focused marketing and delivery plan directed to the local agricultural producers that were identified in paragraph (c)(5)(iii) of this section. The actions to be taken should include steps for identifying customers, acquiring personnel and contracting for services to the Center, including arrangements for strategic alliances.

(v) *Performance Evaluation Criteria.* Performance criteria suggested by the applicant for incorporation in the grant award in the event the proposal

receives grant funding under this subpart. These suggested criteria are not binding on USDA.

(vi) *Agricultural Community Support.* Evidence of support from the local agricultural community should be included in this section. Letters in support should reflect that the writer is familiar with the provisions of the Plan for the Center, including the stated goals.

Evidence of support can take the form of making employees available to the Center, service as a board member and other in-kind contributions.

(vii) *Strategic Coordination and Alliances.* Describe arrangements in place or planned with end users (processing and distribution companies and regional grocers) as well as arrangements with entities having technical research capabilities, broad support from the agricultural community in the state or region, significant coordination with end users (processing and distribution companies and regional grocers), strategic alliances with entities having technical research capabilities and a focused delivery plan for reaching out to the producer community.

(viii) *Capacity.* Evidence of the ability of the grantee(s) to successfully establish and operate a Center. A description of the grantee's track record in providing services similar to those listed for Producer Services or evidence that the entity has the capability to provide Producer Services. Resumes of key personnel should be included in this section. Past successes should be described in detail, with a focus on lessons learned, best practices, familiarity with producer problems in Value-Added ventures, and how these barriers are best overcome should be elaborated on in this section. For every challenge identified, the applicant should demonstrate how they are addressed in the Work Plan (see paragraph (c)(5)(iv) of this section). All successes should include a monetary estimate of the Value-Added achieved.

(ix) *Legal structure.* Provide a description of the legal relationship between the grantee(s) and the proposed Center. If the Center is to be an independent corporate entity, provide copies of the corporate charter, bylaws and other relevant organizational documents. De-

scribe how funds for the Center will be handled and include copies of the agreements documenting the legal relationships between the Center and related parties. If the Center is not to be an independent legal entity, provide copies of the corporate governance documents that describe how members of the Board of Directors for the Center are to be determined.

(x) *Evaluation Criteria.* Each of the evaluation criteria referenced in the RFP must be specifically and individually addressed in narrative form. Supporting documentation, as applicable, should be included in this section, or a cross reference to other sections in the application should be provided, as applicable.

(xi) *Verification of Adequate Resources.* Present a budget to support the work plan showing sources and uses of funds during the start up period prior to the start of operations and for the first year of full operations. Present a copy of a bank statement evidencing sources of funds equal to amounts required in excess of the grant requested, or, in the alternative, a copy of confirmed funding commitments from credible sources such that USDA is satisfied that the Center has adequate resources to complete a full year of operation. Include information sufficient to facilitate verification by USDA of all representations.

(xii) *Certification of Adequate Resources.* Applicants must certify that non-Federal funds identified in the budget pursuant to paragraph (c)(5)(xi) of this section will be available and funded commensurately with grant funds.

#### § 4284.1011 Evaluation screening.

The Agency will conduct an initial screening of all proposals to determine whether the applicant is eligible and whether the application is complete and sufficiently responsive to the requirements set forth in the applicable RFP so as to allow for an informed review. Incomplete or non-responsive applications will not be evaluated further, and may be returned to the applicant. Applicants may revise their applications and re-submit them prior to the published deadline if there is sufficient time to do so.



**§ 4284.1012 Evaluation process.**

(a) Applications will be evaluated by qualified reviewers appointed by the Agency.

(b) After all proposals have been evaluated using the evaluation criteria and scored in accordance with the point allocation specified in the applicable RFP, Agency officials will present to the Administrator of RBS a list of all applications in rank order, together with funding level recommendations.

(c) The Administrator reserves the right to award additional points, as specified in the applicable RFP, to accomplish agency objectives (e.g., to ensure geographic distribution, put emphasis on a specific commodity, or to accomplish presidential initiatives.) The maximum number of points that can be added to an application under this paragraph cannot exceed ten percent of the total points the application originally scored.

(d) After giving effect to the Administrator's point awards, applications will be funded in rank order until all available funds have been obligated.

**§ 4284.1013 Evaluation criteria and weights.**

Unless supplemented in a RFP, the criteria listed in this section will be used to evaluate grants under this subpart. The distribution of points to be awarded per criterion will be identified in the applicable RFP.

(a) *Ability to Deliver.* The application will be evaluated as to whether it evidences unique abilities to deliver Producer Services so as to create sustainable Value-Added ventures. Abilities that are transferable to a wide range of agricultural Value-Added commodities are preferred over highly specialized skills. Strong skills must be accompanied by a credible and thoughtful plan.

(b) *Successful Track Record.* The applicant's track record in achieving Value-Added successes.

(c) *Work Plan/Budget.* The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic and efficient plans will result in a higher score. Budgets will be reviewed for completeness and the

strength of non-Federal funding commitments.

(d) *Qualifications of personnel.* Proposals will be reviewed for whether the key personnel who are to be responsible for performing the proposed tasks have the necessary qualifications and whether they have a track record of performing activities similar to those being proposed. If a consultant or others are to be hired, points may be awarded for consultants only if the proposal includes evidence of their availability and commitment as well. Proposals using in-house employees with strong track records in innovative activities will receive higher points relative to proposals that out-source expertise.

(e) *Local support.* Proposed Centers must show local support and coordination with other developmental organizations in the proposed service area and with state and local institutions. Support documentation should include recognition of rural values that balance employment opportunities with environmental stewardship and other rural amenities. Proposed Centers that show strong support from potential beneficiaries and coordination with other developmental organizations will receive more points than those not evidencing such support.

(f) *Future support.* Applicants that can demonstrate their vision for funding center operations for future years, including diversification of funding sources and building in-house technical assistance capacity, will receive more points for this criterion.

**§ 4284.1014 Grant closing.**

(a) *Letter of Conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's "Letter of Intent to Meet Conditions," or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to

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the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must enter into an “Agriculture Innovation Center Grant Agreement” prior to the advance of funds.

**§§ 4284.1015–4284.1099 [Reserved]**

**§ 4284.1100 OMB control number.**

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0570–0045.

**PART 4285—COOPERATIVE AGREEMENTS**

**Subpart A—Federal-State Research on Cooperatives Program**

Sec.

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4285.93 Other Federal statutes and regulations that apply.

4285.94 Other conditions.

4285.95–4285.99 [Reserved]

4285.100 OMB control number.

AUTHORITY: 7 U.S.C. 1623; Public Law 103–111, 107 Stat. 1046; 7 U.S.C. 2201; USDA Secretary’s Memorandum 1020–39, dated September 30, 1993; and Public Law 103–211, 108 Stat. 3.

SOURCE: 59 FR 38342, July 28, 1994, unless otherwise noted.

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**Subpart A—Federal-State Research on Cooperatives Program**

**§ 4285.1 Objective.**

This subpart sets forth the policies and procedures and delegates authority for providing Federal-State Research on Cooperatives cooperative agreement funds to finance programs of research on cooperatives as authorized under Section 204 (b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623 (b)). The primary purpose of this matching fund program, via cooperative agreements, is to encourage State Departments of Agriculture and State Agricultural Experiment Stations in conducting research related to agricultural cooperatives.

**§ 4285.2 Cooperative agreement purposes.**

Rural Development Administration (RDA) or its successor agency may enter into a cooperative agreement with a State agency to provide funds to the State agency to:

(a) Conduct marketing research related to agricultural cooperatives.

(b) Assist other organizations in conducting marketing research related to agricultural cooperatives.

**§ 4285.3 Definitions.**

As used in this part:

*Agreement period.* The total period of time approved by the Assistant Administrator for Cooperative Services for conducting the proposed project as outlined in an approved application. The time period is normally no more than 3 years, renewable for cause not to exceed a total of 4 fiscal years.

*Agricultural products.* Agricultural products include agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed or manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof.

*Assistant Administrator for Cooperative Services.* The Assistant Administrator for Cooperative Services, Rural Development Administration or its successor